

11 U.S.C. § 506(a)
tenancy by entirety
valuation

In re Pletz, Case No. 397-30506-elp13
Pletz v. United States, Civ. No. 98-1357

12/22/98 Marsh, aff'g ELP Unpublished
(see P97-19(9))
See 9th Cir. opinion affirming - P00-7(6)

The district court affirmed Judge Perris's conclusion that, under Oregon law, the IRS's lien attached to debtor's entirety interest in his real property. (P97-19(9)) Chapter 13 debtor owned property as tenant by the entirety with his nondebtor spouse. Debtor owed tax to the IRS for which his nondebtor spouse was not liable. The debtor's entirety interest in the property is property of his bankruptcy estate. Under Oregon law, a lien can attach to one spouse's interest in entirety property. Therefore, the IRS lien attached to debtor's entirety interest.

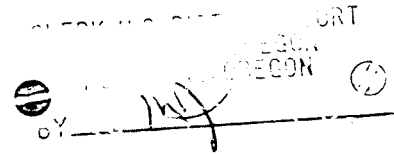
The district court held that debtor's reliance on United States v. Rogers, 461 U.S. 677 (1983) was misplaced, as that case relied on an interpretation of Texas law.

The court also affirmed the bankruptcy court's valuation of the entirety interest and division of that interest with debtor's spouse.

P98-18(3)

FILED

1993 DEC 22 P 1:58



Certified to be a true and correct
copy of original filed to my office.
Dated 12/30/98
By Donald M. Cinnamond, Clerk
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

In Re)
RUDIE WILLIAM PLETZ,)
Debtor.)

Case No. 397-30506-ELP13
~~Civil~~
~~Adv. Proc. No. 98-01357~~

ORDER

RUDIE WILLIAM PLETZ,)
Appellant,)
v.)
UNITED STATES OF AMERICA,)
Appellee.)

Richard Parker
1618 S.W. First Ave.
Suite 205
Portland, OR 97201

Attorney for Appellant

Kristine Olson
United States Attorney
1000 S.W. Third Ave., Suite 600
Portland, OR 97204
Thomas Dosik
U.S. Dept. Of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044

Attorney for Appellee

P98-18(3)

64 (57)

1 MARSH, Judge.

2 Appellant seeks review of a bankruptcy court's decision
3 regarding the application of a tax lien to his value in real
4 property owned jointly with his wife. The bankruptcy court
5 refused to confirm appellant's Chapter 13 reorganization plan
6 when it sustained the IRS' objection based upon the appellant's
7 value in his property. Appellant claims that the IRS has no lien
8 against his value in the property, that the court erred in
9 valuing his interest in the property and that the court erred in
10 admitting expert testimony from the IRS.

11 My review of Judge Perris' legal conclusion regarding the
12 application of the lien is de novo. In Re Chabot, 992 F.2d 891,
13 892 (9th Cir. 1993). My review of Judge Perris' factual
14 determination regarding the value of the property is for clear
15 error. Id. Review for the admission of expert testimony is for
16 abuse of discretion. Scott v. Ross, 140 F.3d 1275 (9th Cir.
17 1997), petition for cert. filed Nov. 24, 1998.

18 I have carefully reviewed Judge Perris' November 25, 1997
19 opinion and March 30, 1998 letter decision. I find that she
20 properly interpreted Oregon law and correctly concluded that the
21 IRS' lien attached to appellant's joint tenancy interest in his
22 real property. I find appellant's reliance upon United States v.
23 Rogers, 461 U.S. 677 (1983) misplaced as that decision relied
24 upon the Court's interpretation of Texas law.

25 I also find that Judge Perris fairly valued the
26 appellant's interest in real property and appropriately divided
27 that interest with that of his spouse. The court expressly noted
28

1 and addressed the weaknesses of both parties' experts and gave
2 limited weight to both. I find that she reached a fair
3 valuation.

4 Accordingly, the bankruptcy court's decision is AFFIRMED.
5 IT IS SO ORDERED.

6 DATED this 21 day of December, 1998.

7 Malcolm F. Marsh
8 Malcolm F. Marsh
9 United States District Judge